

REMARKS

Claims 1 – 18 were pending in this application.

Claims 1 - 18 were rejected.

Claims 1, 12, 15 and 16 were amended.

Claim 3 was cancelled.

L.35 USC 102(b) Rejections

Claims 1-9, 11-16 and 18 were rejected under 35 USC 102 as being anticipated by U.S. Patent No. 5,672,131 to Osborne.

The rejected claims contain three independent claims, which are Claim 1, Claim 12 and Claim 15. Each of these independent claims has been amended and is believed to be distinguishable over the cited prior art, as is explained below.

Claim 1

Claim 1 sets forth a amusement device that is held in the hand and struck against any other object. The claimed device has a shaft that is held in a person's hand. A plurality of contact targets radially protruding as salient points from the shaft in at least three different directions. Each of the contact targets contains a sensor that senses when that contact target is struck against an external object. A plurality of indicators are also provided, wherein each of the indicators is associated with one of the contact targets.

A microprocessor is coupled to both the indicators and to each of the sensors. The microprocessor activates the indicators in a sequence and detects if the contact targets are struck in that same sequence.

Since the contact targets extend as salient points, at least one of the contact targets will be the point of contact against a surface as the device is swung against a surface. The point of play is to orient the device so the specific contact targets are struck in a predetermined sequence.

The Osborne patent discloses a paddle or racket. The paddle has a circular frame with a handle. In the circular frame is a flat contact pad. Electronics are provided in the handle that

determine which of the two sides of the paddle is being used to contact a ball.

The Osborne patent is very different from the present invention device both in physical structure and intended method of play. As compared to the wording of Claim 1, it is clear that the Osborne patent does not have contact targets that radially extend from a shaft as salient points. Rather, in the Osborne patent, the flat contact pads are surrounded by the frame of the paddle and are the most protected part of the paddle. Thus, it would be very hard to strike the contact pads of the Osborne paddle by swinging the paddle against a surface, such as a wall, table top or the like.

Furthermore, the Claim 1 of the present invention specifically states that the contact targets radially extend from the shaft in at least three different directions. This is important to the claimed invention because it ensures that a contact target will always be compressed when the device is swung against a surface, regardless to the orientation of the device.

The Osborne paddle clearly does not have contact targets extending as salient points in at least three directions. Rather the Osborne paddle only has a two-dimensional pad and no salient points are present.

In regard to both Claim 5 and Claim 6, the present invention claims the ability of the contact targets to move relative the shaft being held.

The Osborne patent makes no disclosure whatsoever of any contact pad that can move in position relative the paddle handle. It is therefore clear that the Osborne patent cannot anticipate the matter of Claim 5 or Claim 6.

As such, it is clear that the Osborne patent does not anticipate the matter set forth in Claim 1 or its dependent claims. Claim 1 and its dependent claims are therefore believed to be fully distinguishable over the Osborne patent. The Examiner is therefore requested to respectfully withdraw the 35 USC 102 rejection.

Claim 12

Claim 12 sets forth a game that includes “a hand-held object having a plurality of contact targets extending as salient points in at least three different directions from said hand-held

object.”

As has previously been explained, the Osborne paddle does not have contact targets that extend as salient points. Furthermore, the Osborne paddle does not have contact targets that extend in at least three different directions.

As such, it is clear that the paddle device of the Osborne patent does not anticipate the matter set forth in Claim 12 or its dependent claims. Claim 12 and its dependent claims are therefore believed to be fully distinguishable over the Osborne patent. The Examiner is therefore requested to respectfully withdraw the 35 USC 102 rejection.

Claim 15

Claim 15 of the present application sets forth a method of play for the toy device. The method includes “providing a hand-held object having a plurality of contact targets disposed thereon extending as salient points in at least three different directions from said hand-held object.”

As has previously been explained, the Osborne paddle does not have contact targets that extend as salient points. Furthermore, the Osborne paddle does not have contact targets that extend in at least three different directions.

As such, it is clear that the Osborne patent does not anticipate the matter set forth in Claim 15 or its dependent claims. Claim 15 and its dependent claims are therefore believed to be fully distinguishable over the Osborne patent. The Examiner is therefore requested to respectfully withdraw the 35 USC 102 rejection.

II. 35 USC 103(a) Rejections

The Examiner has rejected Claims 10 and 17 under 35 USC 103(a) as being unpatentable over Osborne in view of the Examiner’s personal knowledge of the game Simon.

Claim 10 depends from independent Claim 1. Claim 17 depends from independent Claim 15. Both Claim 1 and Claim 15 are distinguishable over the Osborne patent for the reasons

previously provided. The addition of the game "Simon" does nothing to address the deficiencies of the Osborne patent as applied to the independent claims. The game "Simon" is a table top game where players push large contact pads as they light. The game "Simon" is not swung against other objects. The game "Simon" does not have contact targets extending from a shaft as salient points. Lastly, the game "Simon" does not have protruding contact targets that extends from a shaft in at least three separate directions.

Since these same elements are lacking from the Osborne reference, it is clear that the combination of the Osborne patent and the game "Simon" do not disclose the matter of any independent claim now pending. Claims 10 and Claim 17 are therefore believed to be allowable since they depend from and further define allowable base claims.

II. DRAWINGS

The application was filed with informal drawings. Formal drawings will be filed upon receipt of the Notice of Allowance for this application.

III. SUMMARY

Having fully distinguished the pending claims over the cited art, this application is believed to stand in condition for allowance. However, if the Examiner is of the opinion that such action cannot be taken, the Examiner is requested to call the applicant's attorney at (215) 321-6772 in order that any outstanding issues may be resolved without the necessity of issuing a further Office Action.

Respectfully Submitted,



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